

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

APPLICANTS:	Esa Harma	CONF. NO.:	7550
SERIAL NO.:	09/881,452	ART UNIT:	2686
FILING DATE:	6/14/2001	EXAMINER:	Khawar Iqbal
TITLE:	METHOD AND ARRANGEMENT FOR DISTRIBUTING, EXECUTING AND CONSUMING RECREATIONAL APPLICATIONS IN AND BETWEEN MOBILE TELECOMMUNICATION DEVICES		
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**APPELLANTS BRIEF**

(37 C.F.R. §1.192)

Applicant respectfully requests that the Appeal in this application be re-instated. The original Notice of Appeal was mailed on January 9, 2006. After submission of Applicant's Brief on Appeal, the Examiner re-opened prosecution and issued an Office Action on September 17, 2007. A second Notice of Appeal was filed on December 17, 2007. The only fee due with this appeal brief is any difference in the applicable appeal brief fee.

**[1] REAL PARTY IN INTEREST**

The real party in interest in this Appeal is the assignee, Nokia Corporation, Espoo, Finland.

**[2] RELATED APPEAL AND INTERFERENCES**

An earlier appeal was filed in the subject application on January 5, 2007. In response to Appellant's Brief on Appeal, the examiner reopened prosecution with the office action mailed September 17, 2007. The office action of September 17, 2007 rejected all of the claims on grounds almost identical to those previously on appeal, whereupon Appellant has filed this Appeal.

### **[3] STATUS OF CLAIMS**

Claims 1-44 stand rejected under 35USC102(e) based on the disclosure of Shaw, et al, U.S. Publication No. 20020083148 (referred to herein as Shaw). Claims 1-44 stand rejected under 35USC102(e) based on the disclosure of Hawkins, et al, U.S. Patent No. 6,009,458 (referred to herein as Hawkins). Claims 1-44 stand rejected under 35USC103(a) based on the combined disclosure of Perlman, U.S. Patent No. 6,134,590 (referred to herein as Perlman), in view of Hawkins. These rejections are contained in the office action mailed September 17. Claims 1-44 are presented for consideration in this Appeal and are contained in the attached Claim Appendix.

### **[4] STATUS OF AMENDMENTS**

There were no amendments filed after Final Rejection.

### **[5] SUMMARY OF CLAIMED SUBJECT MATTER**

According to the claim 1, applicant's invention concerns a method in which a user of a terminal of a wireless network may call another user to a common session of executing recreational software. To accomplish this, referring to figure 1 and specification page 6, line 35 to page 8, line 35, a first user

transmits a proposal for setting up a game session, (101). After a proposal is received (105) and accepted (106), the participants must establish a game ready state (107-109) by using the communication capabilities of at least one of the terminals. In the game ready state both terminals possess the executable software components of the selected recreational application needed for setting up a common, shared session and for executing the recreational application (110).

According to the claim 36, applicant's invention concerns means by which a user of a terminal of a wireless network may call another user to a common session of executing recreational software. To accomplish this, referring to figures 16a and 16b (see specification page 28, line 20 to page 29, line 8), means (1601-1604) are provided to allow a first user to transmit a proposal for setting up a game session, (101). In addition means (1605-1607) are provided by which one user makes a proposal to another user. The other user is provided with means (1601-1604) for receiving the proposal (105) and accepting the proposal (106), the participants must then establish a game ready state (107-109) by using the communication capabilities (1601-1604) of at least one of the terminals. In the game ready state both terminals possess the executable software components of the selected recreational application needed for setting up a common, shared session and for executing the recreational application (110) by using the control block means 1607 and interface means 1608.

According to the claim 37, applicant's invention concerns a method in which a user of a terminal of a wireless network may distribute a recreational application among other users in the network. To accomplish this, referring to figure 1 and specification page 6, line 35 to page 8, line 35, a first user transmits a proposal for setting up a game session, (101). After a proposal is received (105) and accepted (106), the participants establish a game ready

state (107-108) wherein both of the user terminals obtain the necessary executable software components of the selected recreational application by using the communication capabilities of at least one of the terminals. In the game ready state both terminals possess the needed for setting up a common, shared session and for executing the recreational application (110). At that time an enabling token or missing part is received by both terminals (109) (710-711) (see fig. 7, and page 14, lines 11-24).

According to the claim 38 applicant's invention concerns means by which a user of a terminal of a wireless network may call another user to a common session of executing recreational software. To accomplish this, referring to figures 16a and 16b (see specification page 28, line 20 to page 29, line 8), means (1601-1604) are provided to allow a first user to transmit a proposal for setting up a game session, (101). In addition means (1605-1607) are provided by which one user makes a proposal to another user. The other user is provided with means (1601-1604) for receiving the proposal (105) and accepting the proposal (106), the participants must then establish a game ready state (107-109) by using the communication capabilities (1601-1604) of at least one of the terminals. In the game ready state both terminals possess the executable software components of the selected recreational application needed for setting up a common, shared session and for executing the recreational application (110) by using the control block means 1607 and interface means 1608.

According to claim 39, applicant's invention concerns arrangement means by which a user of a terminal of a wireless network may call another user to a common session of executing recreational software. To accomplish this, referring to figures 16a and 16b (see specification page 28, line 20 to page 29, line 8), means (1601-1604) are provided to allow a first user to transmit a proposal for setting up a game session, (101). In addition means (1605-1607)

are provided by which one user makes a proposal to another user. The other user is provided with means (1601-1604) for receiving the proposal (105) and accepting the proposal (106), the participants must then establish a game ready state (107-109) by using the communication capabilities (1601-1604) of at least one of the terminals. In the game ready state both terminals possess the executable software components of the selected recreational application needed for setting up a common, shared session and for executing the recreational application (110) by using the control block means 1607 and interface means 1608.

According to claim 40, applicant's invention concerns a system of wireless terminals having means by which a user of a terminal of a wireless network may call another user to a common session of executing recreational software. To accomplish this, referring to figures 16a and 16b (see specification page 28, line 20 to page 29, line 8), means (1601-1604) are provided to allow a first user to transmit a proposal for setting up a game session, (101). In addition means (1605-1607) are provided by which one user makes a proposal to another user. The other user is provided with means (1601-1604) for receiving the proposal (105) and accepting the proposal (106), the participants must then establish a game ready state (107-109) by using the communication capabilities (1601-1604) of at least one of the terminals. In the game ready state both terminals possess the executable software components of the selected recreational application needed for setting up a common, shared session and for executing the recreational application (110) by using the control block means 1607 and interface means 1608.

According to claim 41, applicant's invention concerns a wireless communication system having means by which a user of a terminal of a wireless network may call another user to a common session of executing

recreational software. To accomplish this, referring to figures 16a and 16b (see specification page 28, line 20 to page 29, line 8), means (1601-1604) are provided to allow a first user to transmit a proposal for setting up a game session, (101). In addition means (1605-1607) are provided by which one user makes a proposal to another user. The other user is provided with means (1601-1604) for receiving the proposal (105) and accepting the proposal (106), the participants must then establish a game ready state (107-109) by using the communication capabilities (1601-1604) of at least one of the terminals. In the game ready state both terminals possess the executable software components of the selected recreational application needed for setting up a common, shared session and for executing the recreational application (110) by using the control block means 1607 and interface means 1608.

According to claim 42, applicant's invention concerns a wireless communication system having means by which a user of a terminal of a wireless network may call another user to a common session of executing recreational software. To accomplish this, referring to figures 16a and 16b (see specification page 28, line 20 to page 29, line 8), means (1601-1604) are provided to allow a first user to transmit a proposal for setting up a game session, (101). In addition means (1605-1607) are provided by which one user makes a proposal to another user. The other user is provided with means (1601-1604) for receiving the proposal (105) and accepting the proposal (106), the participants must then establish a game ready state (107-109) by using the communication capabilities (1601-1604) of at least one of the terminals. In the game ready state both terminals possess the executable software components of the selected recreational application needed for setting up a common, shared session and for executing the recreational application (110) by using the control block means 1607 and interface means 1608.

According to claim 43, applicant's invention concerns a computer program product having code means by which a computer (1607) is caused to allow a user of a terminal of a wireless network to call another user to a common session of executing recreational software. To accomplish this, referring to figures 16a and 16b (see specification page 28, line 20 to page 29, line 8), computer (1607) causes means (1601-1604) to allow a first user to transmit a proposal for setting up a game session, (101). In addition means (1605-1607) are caused to allow one user to make a proposal to another user. Computer (1607) causes means (1601-1604) to receiving the proposal (105) and accept the proposal (106), and allow the participants to establish a game ready state (107-109) by using the communication capabilities (1601-1604) of at least one of the terminals. In the game ready state both terminals possess the executable software components of the selected recreational application needed for setting up a common, shared session and for executing the recreational application (110) by using the control block means 1607 and interface means 1608.

According to claim 44, applicant's invention concerns a computer program product (1103) having code means by which a computer (1107) is caused to allow a user of a terminal (1101) of a wireless network (1107) to call another user (1102) to a common session of executing recreational software (1104-1106). To accomplish this, referring to figures 11 and 12 (see specification page 20, line 30 to page 21, line 7), computer (1107) causes terminals (1101,1102) to allow a first user to transmit a proposal for setting up a game session,. In addition computer (1107) is caused to allow one user (1101) to make a proposal to another user (1102). Computer (1107) causes terminal (1102) to receiving the proposal and accept the proposal, and allow the participants to establish a game ready state by using the communication capabilities (1601-1604, fig 16a,b) of at least one of the terminals

(1101,1102). In the game ready state both terminals possess the executable software components (1103,1105) of the selected recreational application (1104) needed for setting up a common, shared session and for causing the execution of the recreational application on terminals (1101,1102).

In summary, two basic approaches are given in the applicant's description. According to a first embodiment, the process of calling another player to the game involves delivering (108) an executable software component of the game to the terminal of the invited player. This embodiment is described in applicant's independent claims 1, 36, 39-44. According to a second embodiment, the executable software components of the game exist in both terminals already, but the process of inviting another player to the game involves delivering an enablement token to the terminal of the invited player, so that only after having received the enablement token the terminal is able to use the executable software of the game. This embodiment is described in applicant's independent claims 37 and 38. It should be noted that the executable software is in each and every case the actual, dedicated recreational software; i.e. the program code of the game itself.

## **[6] Grounds of Rejection to be Reviewed on Appeal**

- A. The grounds for the Examiner's rejection of claims 1-44 under 35 USC 102(e) based on the disclosure of Shaw.
- B. The grounds for the Examiner's rejection of claims 1-44 under 35 USC 102(e) based on the disclosure of Hawkins..
- C. The grounds for the Examiner's rejection of claims 1-44 under 35 USC 103(a) based on the combined teaching Perlman in view of Hawkins.



As indicated above, the rejections are contained in the Office Action mailed September 17, 2007.

## **[7] Argument**

A. The Examiner has failed to establish that the reference Shaw expressly or inherently describes all of the elements of claims 1-44 of this application. In particular the reference Shaw fails to disclose the elements of independent claims 1, and 36-44 of this application. It is well settled that a claim is anticipated, "only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (See CHISOLM, Federal Circuit Guide, Pg. 1221).

Claim 1 states:

**“transmitting from a first terminal of said group of terminals to a second terminal of said group of terminals, a proposal for setting up a session of utilising a recreational application and**

**only after the second terminal has received said proposal,**  
**using the communicational capabilities of at least one of the first and second terminals to establish a state where both the first terminal and the second terminal possess executable software components of said recreational application for setting up a common, shared session and for executing said recreational application on said first and second terminals.” (emphasis added)**

Equivalent language is contained in Independent claims 36-44. The cited reference Shaw fails to disclose these elements.

The cited reference Shaw fails to support the rejection based on anticipation because it does not involve communications transmitted by a wireless terminal in a wireless network, the games in Shaw are not initiated by direct

communication between first and second wireless terminals. Also, there is no suggestion that the games are played using software executed by a wireless terminal.

The reference Shaw describes a system for caching of personalized content on a centralized server. As shown in figure 1, a centralized office 24 may be accessed by users, through wireless communication or other means through aggregation 26. There is no disclosure of direct communication between wireless terminal users to initiate a gaming session and there is no disclosure of downloading game application software to the wireless terminals that are in direct gaming communication. The initiation of a media or gaming session in the system of Shaw is described as follows in paragraph 0030 with reference to figure 7, as follows:

**“The users each first downloads the online session software application from either edge cache engine 146 or game servers 140 and 134, as shown in block 192.”**

The Examiner places reliance on the illustration in figure 1 of multiple users, some of which may use a broadband wireless connection, but fails to recognize the failure of Shaw to indicate any direct connection between users. Each user is connected to content provider server 12 via the internet and core network 16 to establish an online session. (see the last sentence of paragraph 19).

Considering the further language of claim 1, Shaw also fails to disclose the following claimed feature:

**“only after the second terminal arrangement has received said proposal, using the communicational capabilities of at least one of the first and second terminal arrangements...”**

In the second sentence of paragraph 0030 Shaw states that **“the users each first downloads the online session software application...”**. Thus Shaw teaches that the communication capabilities of the terminals are first used to obtain the necessary executable software components of the recreational application. Invitations to join the online session are exchanged only afterwards, (see the later sentences of paragraph 0030. This difference is important, because the claimed invention enables proposing gaming sessions also to terminals that previously do not know about e.g. a new game. Shaw requires both terminals to have access to the online session application before invitations may be sent.

At the beginning of the last paragraph of page 3 of the Office Action, the Examiner indicates that: **“Shaw further teaches only after the second terminal has received said proposal.. .to establish a state where both... possess executable software components”**. Then immediately afterwards, in a parenthetical note, the Examiner states that **“ In paragraphs 0030, 0032, Shaw teaches that after each of the users downloads the online session software application, each user invites another user...”** (emphasis added). The Examiner therefore, recognizes the deficiency of Shaw, but fails to apply it, with the result that, in order to show anticipation to a claimed feature where proposal comes first and software thereafter, the Examiner cites a passage of Shaw where software comes first and proposal thereafter.

The Examiner proceeds to apply the same reasoning to support the rejection of claim 36. The Examiner has failed to establish that the reference Shaw expressly or inherently describes all of the elements of claim 36 of this

application. Specifically, the reference Shaw fails to disclose the elements of independent claims 1, and 36-44 of this application as applied to claim 1 above. In addition Shaw fails to disclose the claimed feature **“means for responding to a situation where such proposals have been exchanged by using its communication capabilities...”**. This is the same deficiency as indicated above in the case of claim 1, only with respect to apparatus. Shaw only discloses terminals that are capable of downloading the executable software components of the recreational application first, and exchanging proposals only thereafter.

The Examiner has failed to establish that the reference Shaw expressly or inherently describes all of the elements of claim 37 of this application. Specifically the reference Shaw fails to disclose the elements of independent claims 1, and 36-44 of this application as applied to claim 1 above. In addition with reference to claim 37, Shaw fails to disclose the claimed feature **“only after the second terminal arrangement has received said proposal, using the communicational capabilities of at least one of the first and second terminal arrangements... possess enough software components to, upon the receipt of an enabling token, to execute...”**. As indicated above, Shaw only discloses terminals that establish a full state of readiness first and start exchanging proposals only thereafter. The concept of a user profile in Shaw does not read on the concept of an enabling token in the claimed invention, because the user does not need to have a profile to start playing: the later part of paragraph 0030 in Shaw discloses how the user profile may be only gradually built up during an already initiated and ongoing game, by monitoring the user's behavior.

The Examiner has failed to establish that the reference Shaw expressly or inherently describes all of the elements of claim 38 of this application. Specifically the reference Shaw fails to disclose the elements of independent claims 38, as indicated with respect to claim 37 above. In addition with reference to claim 38, Shaw fails to disclose the claimed feature **“means for responding to a situation where such proposals have been exchanged by using its communicational capabilities.., enough resident software components... upon the receipt of an enablement token, for setting up...”**.

The Examiner has failed to establish that the reference Shaw expressly or inherently describes all of the elements of claim 39 of this application. Specifically the reference Shaw fails to disclose the elements of independent claims 39, as indicated with respect to claim 36 above. In addition with reference to claim 39, Shaw fails to disclose the claimed feature **“means for responding to a situation where such proposals have been exchanged by using communicational capabilities.., to establish a state where both.. terminal arrangements possess enough resident executable software components...”**.

The Examiner has failed to establish that the reference Shaw expressly or inherently describes all of the elements of claim 40 of this application. Specifically the reference Shaw fails to disclose the elements of independent claims 40, as indicated with respect to claim 38 above. In addition with reference to claim 40, Shaw fails to disclose the claimed feature **“means for responding to a situation where such proposals have been exchanged by using communicational capabilities.., to establish a state where both...terminal arrangements possess enough software components to enable resident executable software...”**

The Examiner has failed to establish that the reference Shaw expressly or inherently describes all of the elements of claim 41 of this application. Specifically the reference Shaw fails to disclose the elements of independent claims 41, as indicated with respect to claims 36 and 39 above. In addition with reference to claim 41, Shaw fails to disclose the claimed feature: **“...means for responding to a situation where such proposals have been exchanged by using communicational capabilities.., to establish a state where both.. terminal arrangements possess enough resident executable software components...”** .

The Examiner has failed to establish that the reference Shaw expressly or inherently describes all of the elements of claim 42 of this application. In addition with reference to claim 38, Considering claim 42, Shaw fails to disclose the claimed feature: **“means for responding to a situation where such proposals have been exchanged by using communicational capabilities.., to establish a state where both.. .terminal arrangements possess resident software components...”**. This is supported in the same manner as indicated above, with respect to claims 38 and 40. Additionally, Shaw fails to disclose a wireless communications system, because even if some parts of the system of Shaw have wireless access to begin with, in principle the whole system is wire-based.

The Examiner has failed to establish that the reference Shaw expressly or inherently describes all of the elements of claim 43 of this application. Specifically the reference Shaw fails to disclose the elements of independent claims 43, as indicated with respect to claims 36, 39, and 41 above. In

addition with reference to claim 43, Shaw fails to disclose the claimed feature: **“only after the second terminal arrangement has received said proposal, using communicational capabilities.. .to establish a state where both... possess enough resident executable software components...”**.

The Examiner has failed to establish that the reference Shaw expressly or inherently describes all of the elements of claim 44 of this application. Specifically the reference Shaw fails to disclose the elements of independent claims 38, 40, and 42, as indicated above. In addition with reference to claim 44, Shaw fails to disclose the claimed feature **“only after the second terminal arrangement has received said proposal, using communicational capabilities.., to establish a state where both...possess resident software components...”**.

The Examiner has applied the same arguments and cited the same portions of the cited reference Shaw as support for rejecting all of the dependent claims of this application. He has painstakingly recited the language of each claim and indicated that it is all disclosed in figures 1-7 and paragraphs 0030 to 0032 of Shaw. In this passage there is a generic description of interactive gaming sessions, without significant detail. The examiner fails to show where the details are found. Applicant submits that the arguments submitted above with respect to independent claims 1, and 36-44 apply equally to the claims dependent, all of which, by virtue of the dependency, have the limitations described in the independent claims.

B. The Examiner has failed to establish that the reference Hawkins. U.S. Patent No. 6,009,458 expressly or inherently describes all of the elements of

claims 1-44 of this application. In particular the elements of independent claims 1, and 36-44 of this application.

The central idea of Hawkins is to digitally create generic playing objects with some basic characteristics, and use mapping programs to derive the actual playing objects needed for a certain game.

The disclosure of Hawkins fails to disclose the claimed feature according to which the enabled state of playing will only be established after the both terminals know they are going to play each other. According to Hawkins, the "chat room" is only for players that already have all required capabilities for playing the game. Nothing in Hawkins would suggest that only after the user has found a suitable and willing adversary, there would result an exchange of executable software or enablement tokens. The games of Hawkins originate in a chat room type internet site in which users, desiring to play a game, congregate. (see column 18, lines 59-62 of Hawkins)

**"Launching a new game is accomplished by sending a message to a game facility indicating that it should launch a new game instantiation with a list of the identities of all the players."**

There is nothing in Hawkins that indicates a mobile telephone user may call another mobile telephone for the purpose of setting up a game session. Wireless communications are not mentioned in Hawkins. This is discussed in column 18, lines 63-67 of Hawkins as follows:

**"While a group of users are playing a game, the public game flow control traffic from the game facility to the clients may be directed through the user interface facility 402 via a communications channel which is similar to an Internet Relay Chat (IRC) channel."**

The system of Hawkins requires a third party game facility that operates as a



chat room into which public traffic may come and go as observers or participants. The above disclosure is included in the excerpt cited by the Examiner, but the deficiencies that it contains are ignored.

The Examiner also cites col. 20, lines 18-28 to show how client software would be downloaded to a user's terminal. The Examiner neglects the fact that this passage describes, what happens immediately when a new user registers in the game facility before entering the chat room and before there is any chance for selecting an opponent. This is not the mobile telephone to mobile telephone transaction that is described in the claims of this application.

The gaming application of the reference Hawkins is run on some site located on an internet server and requires a game server, see column 19, lines 9-14.

**"A running game facility 408 manages all instantiations of a given game. It knows which users are players in the instantiation, and executes game commands from them. It notifies all interested parties (including both players and observers) of game events by multicasting through the user interface facility 402."**

All of the above deficiencies stem from the fact that the games of Hawkins' are not executed on terminals of a wireless radio system, but ordinary networked computers. Nothing in the reference Hawkins suggests that anything other than general purpose computers would be used for playing.

The cited reference Hawkins fails to support the rejection based on anticipation because it does not involve communications transmitted by a wireless terminal in a wireless network, the games in Hawkins are not initiated by direct communication between first and second wireless terminals. Also, there is no suggestion that the games are played using software executed by a wireless terminal.

In general, Hawkins fails to disclose any of those features in the claims that refer to mobile terminals or wireless technology. Hawkins' terminals are not terminals of any cellular radio system, but ordinary computers. Hawkins never makes any suggestions that anything else than general purpose computers would be used for playing.

Additionally Hawkins has exactly the same flaw as Shaw above: according to Hawkins, the player must establish a state of full readiness for playing before he can enter the "chat room" where invitations to play are exchanged.

Therefore with respect to claim 1, Hawkins fails to disclose the claimed feature **"only after the second terminal arrangement has received said proposal, using the communicational capabilities of at least one of the first and second terminal arrangements..."**.

In the paragraph beginning on line 64 of column 19, Hawkins explains how the user must acquire and set up the necessary gaming software before even connecting anywhere. In column 20, lines 24-27, a second option is given in which the user downloads the software from the network, but again prior to any kinds of invitation steps. In a manner similar to Shaw, Hawkins teaches that the user's terminal is first used to establish a state where the terminal possesses executable software components of a recreational application. Proposals are exchanged only thereafter, as is taught in column 20, lines 38-42 of Hawkins.

With respect to claim 36, Hawkins fails to disclose the claimed feature **"means for responding to a situation where such proposals have been exchanged by using its communicational capabilities..."**. This is the same thing as above in the case of claim 1, only written in apparatus-

type language. Hawkins only discloses terminals that are capable of downloading the executable software components of the recreational application first, and exchanging proposals only thereafter.

With respect to claim 37, Hawkins fails to disclose the claimed feature **“only after the second terminal arrangement has received said proposal, using the communicational capabilities of at least one of the first and second terminal arrangements... possess enough software components to, upon the receipt of an enabling token, to execute...”**. As we pointed out above, Hawkins only discloses terminals that establish a full state of readiness first and start exchanging proposals only after. Hawkins does not disclose anything that could read on the concept of an enabling token in the claimed invention. The Examiner’s reference to column 5, lines 30-36 is completely obscure in this respect, because the cited passage only speaks about various network types. The reference to column 18, line 55 to column 19, line 8 also fails to disclose anything that could resemble an enabling token, because it only refers to things, such as requesting the launch of a game in a server, arranging control traffic, and allowing spectators to watch an ongoing game. The cited reference at column 20, lines 16-27 discloses a verifying a password, but the verification does not lead to sending any kind of enabling tokens but only to allowing the user to access the user interface facility of the game server. Again, that takes place in Hawkins before the user can send any invitations or proposals to other players, while in the claimed invention the enabling token is received after the proposal stage.

With respect to claim 38, Hawkins fails to disclose the claimed feature **“means for responding to a situation where such proposals have been exchanged by using its communicational capabilities..., enough resident software components... upon the receipt of an enablement**

**token, for setting up...".** This is the same as indicated above with respect to claim 37.

With respect to claim 39, Hawkins fails to disclose the claimed feature **"means for responding to a situation where such proposals have been exchanged by using communicational capabilities., to establish a state where both.. .terminal arrangements possess enough resident executable software components..."**, as applied with respect to claim 36 above.

With respect to claim 40, Hawkins fails to disclose the claimed feature **"...means for responding to a situation where such proposals have been exchanged by using communicational capabilities., to establish a state where both.. .terminal arrangements possess enough software components to enable resident executable software..."** , as applied with respect to claim 38 above.

With respect to claim 41, Hawkins fails to disclose the claimed feature **"means for responding to a situation where such proposals have been exchanged by using communicational capabilities., to establish a state where both.. .terminal arrangements possess enough resident executable software components..."** , as applied with respect to claims 36 and 39 above.

With respect to claim 42, Hawkins fails to disclose the claimed feature **"means for responding to a situation where such proposals have been exchanged by using communicational capabilities., to establish a state where both.. .terminal arrangements possess resident software components..."** , as applied with respect to claim 38 and 40 above.. Additionally, Hawkins fails to disclose a wireless

communications system, because even if some parts of the system of Hawkins have wireless access to begin with, in principle the whole system is wire-based.

With respect to claim 43, Hawkins fails to disclose the claimed feature **“only after the second terminal arrangement has received said proposal, using communicational capabilities., to establish a state where both... possess enough resident executable software components...”** , as applied with respect to claims 36, 39, and 41 above.

With respect to claim 44, Hawkins fails to disclose the claimed feature **“only after the second terminal arrangement has received said proposal, using communicational capabilities., to establish a state where both... possess resident software components...”** , as applied with respect to claims 38, 40, and 42 above.

C. The Examiner has failed to show that the combined teaching of Perlman and Hawkins renders claims 1-44 obvious because the combined teaching fails to teach or otherwise suggest each and every limitation of the claims. It is well settled that in order to establish a prima facie case for obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, without reference to the disclosure of this application. (MPEP Section 2142) ***In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP § 2143 - § 2143.03 for decisions pertinent to each of these criteria.”**

In particular the combined teaching fails to disclose or suggest the claimed features of independent claim 1, as stated below:

**“transmitting from a first terminal of said group of terminals to a second terminal of said group of terminals, a proposal for setting up a session of utilising a recreational application and**

**only after the second terminal has received said proposal, using the communicational capabilities of at least one of the first and second terminals to establish a state where both the first terminal and the second terminal possess executable software components of said recreational application for setting up a common, shared session and for executing said recreational application on said first and second terminals.” (emphasis added)**

The system described in Perlman is simply described, in column 4, lines 43-47, as follows:

**“The present invention includes an apparatus and method for establishing a multiple site data communication link with a plurality of other computers on conferenced telephone line. The system of the present invention for linking a plurality of computers in a multiple site configuration...”**

The system of Perlman is similar to the system of Hawkins, except that it utilizes a conference call telephone line instead of an Internet chat room site to link multiple personal computers. There is no mention of using wireless terminals via a wireless communication network to establish a game situation between the two terminals for executing the game on the terminals. Perlman also fails to disclose that a proposal is sent to initiate a game session. The disclosure of Hawkins does not remedy these deficiencies.

Therefore, the combined teaching of Perlman and Hawkins fails to disclose or suggest the above identified limitations of claim 1 or the equivalent language contained in claims 36-44.

The cited passage from Perlman at column 4, line 41 to column 5, line 32 in Perlman only describes some connections between computers that may communicate with each other through a network. This passage does not

disclose anything about downloading software components to a mobile terminal. Thus, even if combined with Hawkins, the resulting combined teaching fails to disclose the claim limitations that prescribe the order of downloading software components and receiving proposals as indicated above.

In the cited passage of Perlman at column 36, lines 17-50, there is no description of actual playing in a game session. It only explains how a game that has already been played can be later studied by someone who did not take part in the game himself. Applicant submits that, this passage of text is not pertinent to the present invention, as claimed, where the order of proposing a game and establishing a state in which both parties have enough software components to play is important.

In the discussion with respect to the rejection of the claims based on Hawkins, Applicant has submitted that Hawkins fails to disclose the central features of the pending independent claims. Since Perlman fails in exactly the same way, it is clear that the combined teaching based on these references fails to disclosed the claimed subject matter of independent claims 1, and 36-44. The failure of Perlman is demonstrated by the Examiner's repetitive citation of the same passages of Perlman (col. 4. line 43 — col. 5, line 40; col. 36, lines 17-50) over and over again even against all of the independent claims as well as the depending claims, where a number of very detailed embodiments of the invention are described. These generic descriptions from Perlman, cited by Examiner, fail to discuss the limitations of the claims. A brief discussion of line connections between computers and an explanation of how a third party can watch a playback representation of an already completed game do not disclose the detailed features of the procedure of making two terminals ready for a proposed gaming session. The Examiner leaves the details to the imagination. Applicant submits that

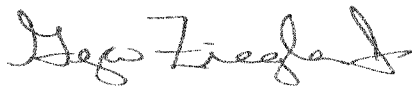
a person skilled in the art would not be taught these details by the combined teaching of Perlman and Hawkins.

## **[8] SUMMARY**

The above stated grounds apply equally to the rejected dependent claims, all of which, by dependency, have the limitations described in the independent claims. It is, therefore, respectfully submitted that all of the claims, as presented, are novel and patentable over the prior art of record. Accordingly, the Board of Appeals is respectfully requested to favorably consider the rejected claims and to reverse the final rejections, thereby enabling this application to issue as a U.S. Letters Patent.

Since this Appeal involves the reinstatement of a prior appeal in an application, in which Examination was reopened by the Examiner, all fees paid in the prior appeal should be applied to this Reinstated Appeal. The Commissioner is hereby authorized to charge payment for any increase in fees as well as for any other fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,



Geza C. Ziegler, Jr.  
Reg. No.: 44,004  
Perman & Green, LLP  
425 Post Road  
Fairfield, CT 06430  
Telephone:(203) 259-1800  
Facsimile:(203) 255-5170

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Date



## **CLAIM APPENDIX**

1. A method for distributing a recreational application within a group of mobile terminals arrangements, where the group comprises at least two terminal arrangements and each terminal arrangement comprises a terminal of a wireless network system, the method comprising the steps of:

transmitting from a first terminal arrangement of said group of terminals to a second terminal arrangement of said group of terminals, a proposal for setting up a session of utilising a recreational application and

only after the second terminal arrangement has received said proposal, using the communicational capabilities of at least one of the first and second terminals arrangements to establish a state where both the first terminal arrangement and the second terminal arrangement possess executable software components of said recreational application for setting up a common, shared session and for executing said recreational application on said first and second terminals.

2. A method according to claim 1, comprising the steps of:

a) transmitting from the first terminal arrangement to the second terminal arrangement a proposal identifying a number of proposed recreational applications,

b) transmitting from the second terminal arrangement to the first terminal arrangement a request for obtaining a software component necessary

for setting up a common, shared session of utilising one of said proposed recreational applications and

- c) as a response to receiving said request in said first terminal arrangement, transmitting said software component from the first terminal arrangement to the second terminal arrangement.

3. A method according to claim 2, comprising, between steps a) and b), the step of presenting said number of proposed recreational applications to the user of the second terminal arrangement, so that step b) is only executed as a response to receiving from said user an indication of acceptance concerning one of said number of proposed recreational applications.

4. A method according to claim 2, wherein step c) comprises the substep of transmitting said software component from the first terminal arrangement to the second terminal arrangement through a local communication link.

5. A method according to claim 2, wherein step c) comprises the substep of transmitting said software component from the first terminal arrangement to the second terminal arrangement through the wireless network system.

6. A method according to claim 2, comprising after step c) the steps of:

- d) transmitting from the second terminal arrangement to the first terminal arrangement an acknowledgement indicating the reception of said software component and

e) after step d), indicating to the users of the first and second terminals arrangements the readiness of utilising the recreational application.

7. A method according to claim 1, comprising the steps of:

a) transmitting from the first terminal arrangement to the second terminal arrangement a proposal identifying a number of proposed recreational applications,

b) transmitting from the second terminal arrangement to a recreational application server a request for obtaining a software component necessary for setting up a common, shared session of utilising one of said proposed recreational applications and

c) as a response to receiving said request in said recreational application server, transmitting said software component from said recreational application server to the second terminal arrangement.

8. A method according to claim 7, comprising between steps a) and b) the step of presenting said number of proposed recreational applications to the user of the second terminal arrangement, so that step b) is only executed as a response to receiving from said user an indication of acceptance concerning one of said number of proposed recreational applications.

9. A method according to claim 7, comprising after step c) the steps of:

- d) transmitting from the second terminal arrangement to the first terminal arrangement an acknowledgement indicating the reception of said software component and
- e) after step d), indicating to the users of the first and second terminals arrangements the readiness of utilising the recreational application.

10. A method according to claim 1, comprising the steps of:

- a) transmitting from the first terminal arrangement to the second terminal arrangement a proposal identifying a number of proposed recreational applications,
- b) transmitting from the second terminal arrangement to the first terminal arrangement a request for obtaining a software component necessary for setting up a common, shared session of utilising one of said proposed recreational applications,
- c) as a response to receiving said request in said first terminal arrangement, transmitting a network address of a recreational application server from the first terminal arrangement to the second terminal arrangement,
- d) transmitting from the second terminal arrangement to said recreational application server a request for obtaining a software component necessary for setting up a common, shared session of utilising one of said proposed recreational applications and

e) as a response to receiving said request in said recreational application server, transmitting said software component from said recreational application server to the second terminal arrangement.

11. A method according to claim 10, comprising between steps a) and b) the step of presenting said number of proposed recreational applications to the user of the second terminal arrangement, so that step b) is only executed as a response to receiving from said user an indication of acceptance concerning one of said number of proposed recreational applications.

12. A method according to claim 10, comprising after step e) the steps of:

f) transmitting from the second terminal arrangement to the first terminal, arrangement an acknowledgement indicating the reception of said software component and

g) after step f), indicating to the users of the first and second terminals arrangements the readiness of utilising the recreational application.

13. A method according to claim 1, comprising the steps of:

a) transmitting from the first terminal arrangement to the second terminal arrangement a proposal identifying a number of proposed recreational applications,

b) transmitting from the second terminal arrangement to the first terminal arrangement a request for obtaining a software component necessary

for setting up a common, shared session of utilising one of said proposed recreational applications,

- c) as a response to receiving said request in said first terminal arrangement, transmitting from the first terminal arrangement to a recreational application server a request for downloading into the second terminal arrangement a software component necessary for setting up a common, shared session of utilising one of said proposed recreational applications and
- d) as a response to receiving said request in said recreational application server, transmitting said software component from said recreational application server to the second terminal arrangement.

14. A method according to claim 13, comprising between steps a) and b) the step of presenting said number of proposed recreational applications to the user of the second terminal arrangement, so that step b) is only executed as a response to receiving from said user an indication of acceptance concerning one of said number of proposed recreational applications.

15. A method according to claim 13, comprising after step d) the steps of:

- e) transmitting from the second terminal arrangement to the first terminal arrangement an acknowledgement indicating the reception of said software component and
- f) after step e), indicating to the users of the first and second terminals arrangements the readiness of utilising the recreational application.

16. A method according to claim 1, comprising the steps of:

- a) transmitting from the first terminal arrangement to the second terminal arrangement a proposal identifying a number of proposed recreational applications,
- b) transmitting from the second terminal arrangement to the first terminal arrangement a request for obtaining a software component necessary for setting up a common, shared session of utilising one of said proposed recreational applications,
- c) as a response to receiving said request in said first terminal arrangement, transmitting from the first terminal arrangement to a recreational application server a request for downloading into the first terminal arrangement a software component necessary for setting up a common, shared session of utilising said one of said proposed recreational applications,
- d) as a response to receiving said request in said recreational application server, transmitting said software component from said recreational application server to the first terminal arrangement and
- e) as a response to receiving said software component, transmitting from the first terminal arrangement to the second terminal arrangement a software component necessary for setting up a common, shared session of utilising said one of said proposed recreational applications.

17. A method according to claim 16, comprising between steps a) and b) the step of presenting said number of proposed recreational applications to the user of the second terminal arrangement, so that step b) is only

executed as a response to receiving from said user an indication of acceptance concerning one of said number of proposed recreational applications.

18. A method according to claim 16, comprising after step e), the steps of:

- f) transmitting from the second terminal arrangement to the first terminal arrangement an acknowledgement indicating the reception of said software component and
- g) after step f), indicating to the users of the first and second terminals arrangements the readiness of utilising the recreational application.

19. A method according to claim 1, comprising the steps of:

- a) transmitting from the first terminal arrangement to the second terminal arrangement a proposal identifying a number of proposed recreational applications,
- b) transmitting from the second terminal arrangement to the first terminal arrangement a first acknowledgement indicating agreement to set up a common, shared session of utilising one of said proposed recreational applications,
- c) transmitting from the first terminal arrangement to a recreational application server a first request for obtaining a software component necessary for setting up a common, shared session of utilising said one of said proposed recreational applications,



- d) transmitting from the second terminal arrangement to a recreational application server a second request for obtaining a software component necessary for setting up a common, shared session of utilising said one of said proposed recreational applications,
- e) as a response to receiving said first request in said recreational application server, transmitting the requested software component from said recreational application server to the first terminal arrangement,
- f) as a response to receiving said second request in said recreational application server, transmitting the requested software component from said recreational application server to the second terminal arrangement and
- g) exchanging a pair of messages between the first and second terminal arrangements indicating the readiness of utilising the recreational application.

20. A method according to claim 19, comprising between steps a) and b) the step of presenting said number of proposed recreational applications to the user of the second terminal arrangement, so that step b) is only executed as a response to receiving from said user an indication of acceptance concerning one of said number of proposed recreational applications.

21. A method according to claim 19, comprising after step g) the step of indicating to the users of the first and second terminals arrangements the readiness of utilising the recreational application.

22. A method according to claim 1, comprising the steps of:

- a) transmitting from the first terminal arrangement to the second terminal arrangement a proposal for setting up a common, shared session of utilising a recreational application,
- b) transmitting from the second terminal arrangement to the first terminal arrangement a proposal identifying a number of proposed recreational applications,
- c) transmitting from the first terminal arrangement to the second terminal arrangement a request for obtaining a software component necessary for setting up a common, shared session of utilising one of said proposed recreational applications and
- d) as a response to receiving said request in said second terminal arrangement, transmitting said software component from the second terminal arrangement to the first terminal arrangement.

23. A method according to claim 22, comprising between steps b) and c) the step of presenting said number of proposed recreational applications to the user of the first terminal arrangement, so that step b) is only executed as a response to receiving from said user an indication of acceptance concerning one of said number of proposed recreational applications.

24. A method according to claim 22, comprising after step d) the step of indicating to the users of the first and second terminals arrangements the readiness of utilising the recreational application.

25. A method according to claim 1, **characterised** in that the step of using the communicational capabilities of at least one of the first and second terminal arrangements to establish a state where both the first terminal arrangement and the second terminal arrangement possess enough software components for setting up a common, shared session of utilising said recreational application comprises the substep of

transmitting from the first terminal arrangement (1101) to the second terminal arrangement (1102) a complete copy (1105, 1106) of those software components (1103, 1104) which the first terminal uses for setting up a common, shared session of utilising said recreational application.

26. A method according to claim 1, wherein the step of using the communicational capabilities of at least one of the first and second terminals arrangements to establish a state where both the first terminal arrangement and the second terminal arrangement possess enough software components for setting up a common, shared session of utilising said recreational application comprises the substep of

transmitting from the first terminal arrangement to the second terminal arrangement a limited copy of those software components which the first terminal uses for setting up a common, shared session of utilising said recreational application, said limited copy being only usable for setting up a common, shared session of utilising said recreational application together with the particular first terminal arrangement in question.

27. A method according to claim 1, wherein the step of using the communicational capabilities of at least one of the first and second terminal arrangements to establish a state where both the first terminal arrangement and the second terminal arrangement possess enough software components for setting up a common, shared session of utilising said recreational application comprises the substep of:

transmitting from the first terminal arrangement to the second terminal arrangement a more advanced copy of those software components which the first terminal uses for setting up a common, shared session of utilising said recreational application.

28. A method according to claim 1, wherein the step of using the communicational capabilities of at least one of the first and second terminal arrangements to establish a state where both the first terminal arrangement and the second terminal arrangement possess enough software components for setting up a common, shared session of utilising said recreational application comprises the substeps of:

transmitting from the first terminal arrangement to the second terminal arrangement an authenticated offer for setting up a common, shared session of utilising said recreational application,

forwarding said authenticated offer from the second terminal arrangement to a recreational application server, and

transmitting from said recreational application server to the second terminal arrangement a limited copy of software components needed for setting up a common, shared session of utilising said recreational application, said limited copy being only usable for setting up a

common, shared session of utilising said recreational application together with the particular first terminal arrangement in question.

29. A method according to claim 28, comprising the step of imposing a charge to the user of the first terminal arrangement for setting up a common, shared session of utilising said recreational application together with the particular second terminal arrangement in question.

30. A method according to claim 1, wherein the step of using the communicational capabilities of at least one of the first and second terminals arrangements to establish a state where both the first terminal arrangement and the second terminal arrangement possess enough software components for setting up a common, shared session of utilising said recreational application comprises the substeps of:

transmitting from the second terminal arrangement to the first terminal arrangement an authenticated offer for setting up a common, shared session of utilising said recreational application,

forwarding said authenticated offer from the first terminal arrangement to a recreational application server, and

transmitting from said recreational application server to the second terminal arrangement a copy of software components needed for setting up a common, shared session of utilising said recreational application.

31. A method according to claim 30, comprising the step of imposing a charge to the user of the second terminal arrangement for setting up a common, shared session of utilising said recreational application together with the particular first terminal arrangement in question.

32. A method according to claim 1, wherein the step of using the communicational capabilities of at least one of the first and second terminals arrangements to establish a state where both the first terminal arrangement and the second terminal arrangement possess enough software components for setting up a common, shared session of utilising said recreational application comprises the substeps of:

transmitting from the second terminal arrangement to the first terminal arrangement an authenticated offer for setting up a common, shared session of utilising said recreational application,

forwarding said authenticated offer from the first terminal arrangement to a recreational application server together with another authenticated offer from the first terminal arrangement for setting up a common, shared session of utilising said recreational application, and

transmitting from said recreational application server to the terminals arrangements copies of software components needed for setting up a common, shared session of utilising said recreational application.

33. A method according to claim 32, comprising the step of imposing charges both to the user of the second terminal arrangement for setting up a common, shared session of utilising said recreational application together with the particular first terminal arrangement in question and to the user of

the first terminal arrangement for setting up a common, shared session of utilising said recreational application together with the particular second terminal arrangement in question.

34. A method according to claim 1, wherein the step of using the communicational capabilities of at least one of the first and second terminal arrangements to establish a state where both the first terminal arrangement and the second terminal arrangement possess enough software components for setting up a common, shared session of utilising said recreational application comprises the substeps of:

exchanging information between the first and second terminals arrangements through a short-distance communications connection during said common, shared session of utilising said recreational application, and

after the exchanging of information between the first and second terminals arrangements through said short-distance communications connection becomes impossible, deeming the common, shared session of utilising said recreational application to be ended.

35. A method according to claim 34, additionally comprising the substep of refraining from other exchange of information between the first and second terminals arrangements through said short-distance communications connection during said common, shared session than such information that is needed to ensure that the short-distance communications connection is still active.

36. A terminal arrangement comprising a A terminal of a wireless network system, comprising

means for exchanging proposals for setting up sessions of utilising a recreational application with other terminals in in the wireless network system arrangements and

means for responding to a situation where such proposals have been exchanged by using its a communicational capabilities capability of said terminal to establish a state where both the terminal arrangement and another terminal arrangement possess enough executable software components of said recreational application for setting up a common, shared session of utilising said recreational application.

37. A method for distributing a recreational application within a group of terminal arrangements, where the group comprisesof at least two terminals arrangements and each terminal arrangement comprises a terminal of a wireless network system, the method comprising:

- transmitting from a first terminal arrangement to a second terminal arrangement a proposal for setting up a session of utilising a recreational application and
- only after the second terminal arrangement has received said proposal, using the communicational capabilities of at least one of the first and second terminals arrangements to establish a state where both the first terminal arrangement and the second terminal arrangement possess enough software components to, upon the receipt of an enabling token, to execute software of said recreational application, said software being available for execution at the first terminal arrangement and the second



terminal arrangement, for setting up a common, shared session utilising said recreational application.

38. A terminal arrangement comprising a terminal of a wireless network system, comprising:

- means for exchanging proposals for setting up sessions of utilising a recreational application with other terminals in the wireless network system arrangements and

- means for responding to a situation where such proposals have been exchanged by using its communicational capabilities to establish a state where both it the terminal and another terminal arrangement possess enough resident software components of said recreational application for execution at the terminal arrangement and another the other terminal arrangement, upon the receipt of an enablement token, for setting up a common, shared session and executing said recreational application.

39. A terminal system of wireless terminals comprising a first terminal arrangement and a second terminal arrangement, comprising

- in each of said first and second terminals, arrangements means for exchanging proposals for setting up sessions of utilising a recreational application with other terminals arrangements and

- in each of said first and second terminals, arrangements means for responding to a situation where such proposals have been exchanged by using communicational capabilities of the first and second terminals arrangements to establish a state where both of said first and second terminals arrangements possess enough resident executable software components of said recreational application for setting up a common, shared

session for executing said recreational application on said first and second terminals arrangements.

40. A terminal system of wireless terminals comprising a first terminal arrangement and a second terminal arrangement, comprising

- in each of said first and second terminal, arrangements means for exchanging proposals for setting up sessions of utilising a recreational application with other terminals arrangements and
- in each of said first and second terminal arrangements means for responding to a situation where such proposals have been exchanged by using communicational capabilities of the first and second terminals arrangements to establish a state where both of said first and second terminals arrangements possess enough software components to enable resident executable software of said recreational application for setting up a common, shared session for executing said recreational application on said first and second terminals arrangements.

41. A wireless communications system for distributing a recreational application within a group of terminals arrangements, comprising:

- a first terminal arrangement, a second terminal arrangement and a recreational application server,
- in each of said first and second terminals, arrangements means for exchanging proposals for setting up sessions of utilising a recreational application with other terminals arrangements and
- in each of said first and second terminals arrangements and said recreational application server means for responding to a situation where such proposals have been exchanged by using communicational capabilities of the first and second terminals arrangements and said recreational application server to establish a state where both of said first and second terminals

arrangements possess resident executable software components of said recreational application for setting up a common, shared session for executing said recreational application on said first and second terminals arrangements.

42. A wireless communications system for distributing a recreational application within a group of terminals arrangements, comprising:
- a first terminal arrangement, a second terminal arrangement and a recreational application server,
  - in each of said first and second terminals, arrangements means for exchanging proposals for setting up sessions of utilising a recreational application with other terminals arrangements and
  - in each of said first and second terminals arrangements and said recreational application server means for responding to a situation where such proposals have been exchanged by using communicational capabilities of the first and second terminals arrangements and said recreational application server to establish a state where both of said first and second terminals arrangements possess resident software components of said recreational application for setting up a common, shared session for executing said recreational application on said first and second terminals arrangements.
43. A computer program product for causing a computer of a terminal of a wireless network system to:
- transmit from a first terminal arrangement to a second terminal arrangement a proposal for setting up a session of utilising a recreational application and

- only after the second terminal arrangement has received said proposal, using communicational capabilities of the first terminal arrangement to establish a state where both the first terminal arrangement and the second terminal arrangement possess resident executable software components of said recreational application for setting up a common, shared session for executing said recreational application on said first and second terminals arrangements.
44. A computer program product which, upon execution in a computer of a terminal of a wireless network system, produces
- transmitting from a first terminal arrangement to a second terminal arrangement a proposal for setting up a session of utilising a recreational application and
- only after the second terminal arrangement has received said proposal, using communicational capabilities of the first terminal arrangement to establish a state where both the first terminal arrangement and the second terminal arrangement possess resident software components of said recreational application for setting up a common, shared session for executing said recreational application on said first and second terminals arrangements.

## **EVIDENCE APPENDIX**

(Not Applicable)

## **RELATED PROCEEDINGS APPENDIX**

(NONE)